



May 10, 2019

Andrew Stith  
Cristo Rey Jesuit High School Milwaukee  
1215 S. 45<sup>th</sup> St.  
West Milwaukee, WI 53214

Subject: Approval to Manage Solid Waste under Wis. Admin. Code § NR 718.12 and/or § NR 718.15  
For On-Site Management Former NDC Inc./Mega Marts, 1818 W. National Ave., Milwaukee, WI  
DNR BRRTS Activity #(s): 02-41-583465, 03-41-000547, 03-41-001060, 03-41-001317,  
03-41-099673 and 03-41-101491  
FID #: 241878450

Dear Mr. Stith:

On March 13, 2019, Travis Peterson from Kapur & Associates, Inc. submitted an Exemption Request for the proposed Cristo Rey Jesuit High School on your behalf requesting to manage 1,000 cubic yards of contaminated soil on the same site from which it will be excavated in accordance with Wis. Admin. Code § NR 718.12 and/or § NR 718.15. Supplemental information regarding this request was also provided. The Department of Natural Resources (DNR) received all applicable technical assistance and database fees for providing review and response, in accordance with Wis. Admin. Code § NR 749.04 (1).

The property was formerly comprised of at least five separate parcels, now combined into one property known as 1818 W. National Ave. Historically, five leaking underground cases were closed at locations on the previous parcels. The DNR recently opened a new case related to contamination that was identified during pre-development soil sampling likely associated with fill material present at the site. The existing former grocery store building will be demolished at the east end of the property to allow construction of a high school, asphalt/concrete parking and drive areas, greenspace and an athletic field. Excavations for the building foundations and footings, and utility installations will generate approximately 1,000 cubic yards of contaminated soil. Low level contamination has been identified in soil impacted by polycyclic aromatic hydrocarbons (PAHs), volatile organic compounds (VOCs), arsenic, and lead. An exemption through Wis. Admin. Code § NR 718.12 and/or § NR 718.15 has been requested to manage the contaminated soil in the areas of the building foundations and footings, utilities and on the central portion of the site where it will be used to fill low areas on the property. Excavation of soil in two areas where higher concentrations of contamination have been identified are proposed to be disposed of offsite at a licensed solid waste landfill.

**Wis. Admin. Code § NR 718.12 and/or § NR 718.15 Exemption**

This letter grants an exemption from the solid waste requirements in Wis. Stat. ch. 289 and Wis. Admin. Code chs. NR 500 to NR 538 for the proposed contaminated material management activities. Approval of the exemption is based on the following:

**Compliance with Locational Criteria**

Managing contaminated waste material in areas of the site identified on Figure 5 (attached) of the Exemption Request will meet the locational criteria listed under Wis. Admin. Code § NR 718.12 (1) (c).

**Characterization of Soil to be Excavated**

Soil samples were collected for analysis of contaminants previously detected or expected to be present at this site including PAHs, VOCs and metals from areas most likely to contain residual contamination. Based on an estimated volume of 1,000 cubic yards of material, and a sampling frequency of 1 sample per 45 cubic yards, the sampling protocol described in Wis. Admin. Code § NR 718.12 (1) (e) was met.

**Submittal of a Soil Management Plan**

A complete soil management plan, as defined by Wis. Admin. Code §§ NR 718.12 (2) (b) and (c), was provided to the DNR.

**Assessment of Risk Posed by Soil Management**

The proposed management of solid waste at the Former NDC Inc./Mega Marts is expected to meet the criteria of Wis. Admin. Code §§ NR 726.13 (1) (b) 1 to 5.

**Notice Provided Prior to Commencing Soil Management Activities**

Per Wis. Admin. Code § NR 718.12 (2), the DNR was provided with at least seven days' notice prior to commencing the proposed material management.

**Requirement of Continuing Obligations**

You have acknowledged that the continuing obligations described below will be required as a condition of managing the contaminated material on your property as proposed.

The current property owner of the Former NDC Inc./Mega Marts, and any subsequent property owners, must comply with the following continuing obligations, established under Wis. Admin. Code § NR 718.12 (2) (d) at this site, to ensure that conditions will remain protective. DNR staff will conduct periodic, pre-arranged inspections to ensure that the conditions included in this letter are met. If these requirements are not followed, the DNR may take enforcement action under Wis. Stat. ch. 292 to ensure compliance with the specified requirements, limitations or other conditions related to the property.

Documents submitted to the DNR to request the Wis. Admin. Code § NR 718.12 and/or 718.15 exemption meet the requirements of Wis. Admin. Code § NR 718.12 (2) (e) and are available in Portable Document Format (PDF) on the DNR's Bureau for Remediation and Redevelopment Tracking on the Web (BOTW) and RR Sites Map (RRSM), to provide public notice of remaining contamination and continuing obligations. Both BOTW and RRSM are available at [dnr.wi.gov](http://dnr.wi.gov) and search "WRRD".

More information on responsibilities related to continuing obligations can be found in the DNR publication "Continuing Obligations for Environmental Protection" (RR-819), which can be found at [dnr.wi.gov](http://dnr.wi.gov), search "RR-819".

Please send written notifications in accordance with the following requirements to:

Wisconsin Department of Natural Resources  
Remediation and Redevelopment Program  
Attn: David Hanson  
2300 N. Dr. Martin Luther King Dr.  
Milwaukee, WI 53212

### Future Solid Waste Management

If solid waste that was managed as proposed in the Exemption Request is excavated in the future, the property owner at the time of excavation will have the following responsibilities per Wis. Admin. Code § NR 727.05 (1) (d):

- determine if contamination is present;
- determine whether the material is considered solid or hazardous waste; and
- ensure that any storage, treatment or disposal is in compliance with applicable statutes and rules.

Solid waste may be managed in accordance with Wis. Admin. Code § NR 718, with DNR pre-approval obtained. In addition, all current and future property owners and occupants of the property need to be aware that excavation of the solid waste may pose a hazard, and special precautions may be necessary to prevent a health threat to humans. If material that will be managed under this exemption includes solid waste other than soil, a historic fill exemption may be required to be obtained from the DNR prior to excavating the waste or constructing any structure over the materials per Wis. Admin. Code § NR 506.085.

The location(s) where contaminated soil is proposed to be managed at Former NDC Inc./Mega Marts is depicted on the attached Soil Disposal/Relocation Map, Figure 5, January 29, 2019.

### Other Information

- 1) Any hazardous substance discharge discovered during material management activities must be reported to the DNR following the requirements of Wis. Admin. Code ch. NR 706.
- 2) Material management activities exempted by this letter are scheduled to be completed within one year. Notify the DNR if this schedule will change.
- 3) Unless otherwise directed by the DNR, documentation of material management activities shall be provided within 60 days of the completion of this project. The documentation must describe how the activities complied with the approved management plan and must also comply with the requirements of Wis. Admin. Code § NR 724.15 (3). Documentation must include:
  - a. A cover letter that contains the information required by Wis. Admin. Code § NR 724.05 (2) (e) 1.
  - b. Owner contact and property location information for the Former NDC Inc./Mega Marts.
  - c. Maps, drawings, and cross sections that depict how contaminated material was managed.
  - d. A synopsis of the work conducted and an explanation as to how it complied with the material management plan and the conditions in this exemption approval.
  - e. A description of any changes made to the planned management activity and an explanation as to why they were necessary for the project.
  - f. Any field observations or results of monitoring conducted during the management activity.
  - g. A description of how new site conditions are protective of human health, safety, welfare and the environment at the Former NDC Inc./Mega Marts.

The DNR will request that incomplete documentation be amended as allowed by Wis. Admin. Code § NR 724.07 (2).

- 4) This exemption is granted under Wis. Admin. Code § NR 718.12 and/or 718.15 and applies only to the specific activities described within the submitted Exemption Request. Any contaminated material that is excavated or otherwise disturbed at the Former NDC Inc./Mega Marts, not covered under this or another exemption, must be managed in compliance with the requirements of Wis. Admin. Code chs. NR 500 through NR 538. The management of contaminated material on a property that does not comply with these rules may be considered a hazardous substance discharge or environmental pollution, and would be required to be addressed by the process outlined in Wis. Admin. Code chs. NR 700 to NR 750.

- 5) Cristo Rey Jesuit High School Milwaukee is responsible for obtaining any local, federal, or other applicable state permits to carry out the project.

All remediation sites are included in DNR's Bureau of Remediation and Redevelopment Tracking System (BRRTS) database. All documents and project milestones related to the cleanup of the open site, BRRTS activity #02-41-583465; and the formerly closed sites are listed in the database are identified by BRRTS activity #(s): 03-41-000547, 03-41-001060, 03-41-001317, 03-41-099673, and 03-41-101491.

We appreciate your efforts to protect the environment at this site. If you have any questions regarding this approval decision, please contact me at (414) 263-8680, or by email at [david.hanson@wisconsin.gov](mailto:david.hanson@wisconsin.gov).

Sincerely,



David Hanson  
Redevelopment Specialist  
Remediation & Redevelopment Program

Attachments:

- Soil Disposal/Relocation Map, Figure 5, dated January 29, 2019 depicting where waste will be placed/replaced

cc: Travis Peterson, Kapur & Associates, Inc. (electronic)  
Nancy Ryan, DNR (electronic)

